

LSK&D #: 564-6019 / 775805  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

**JUDGE MARRERO**

-----X  
JO DAVIS HALLINGBY as Executrix of the  
Estate of PAUL HALLINGBY, JR.,

**06 CV 5059**  
No.

Plaintiff,

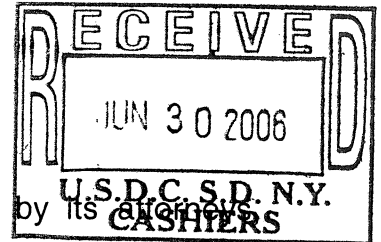
**NOTICE OF REMOVAL**

-against-

MAI V. HALLINGBY and METROPOLITAN  
LIFE INSURANCE COMPANY,

(from New York  
Supreme Court, County  
of New York, Index No.  
300913/93)

Defendants  
-----X



Defendant Metropolitan Life Insurance Company ("MetLife"), by its attorneys

Lester Schwab Katz & Dwyer, LLP, hereby files this Notice of Removal in the above-captioned action to the United States District Court for the Southern District of New York from the Supreme Court of the State of New York, County of New York, as provided by Title 28, United States Code, Chapter 89, as its basis therefore states:

1. This action was commenced on or about May 30, 2006 in the Supreme Court of the State of New York, County of New York, under index no. 300913/93. (Copies of the Order to Show Cause dated May 30, 2006 and supporting affidavits are annexed hereto as Exhibit "A".) No further proceedings have been had herein.

2. This action is being removed to federal court because it seeks recovery of certain annuity benefits provided under the Merrill Lynch pension plan (the "Plan"), an employee pension benefit plan within the meaning of and governed by the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. §§ 1001, et seq.

3. ERISA preempts the state law claims alleged in plaintiff's pleadings and provides the exclusive remedy for recovery of benefits claimed under the employee benefit plans. See ERISA Section 502(a)(1)(B), 514; 29 U.S.C. §§ 1132(a)(1)B, 1144.

4. This Court has original "federal question" jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 1132(c) and (f). As a civil action founded on a right or claim arising under the laws of the United States, this action is properly removable to the Court pursuant to 28 U.S.C. § 1441(a) and (b). See Metropolitan Life Ins. Co. v. Taylor, 481 U.S. 58 (1987).

5. Defendant Mai V. Hallingby has consented to removal of this action. (See Exhibit "B" annexed hereto.)

6. This Notice of Removal is being filed within the time period specified by law. See 28 U.S.C. § 1446(b).

7. A copy of this Notice of Removal will be filed with the Clerk of the Supreme Court of the State of New York, County of New York, as required by law. See 28 U.S.C. § 1446(d).

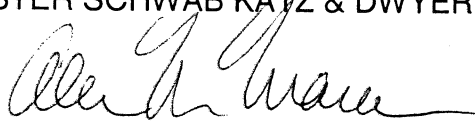
8. Written notice of the filing of the Notice of Removal will be given to plaintiff as required by law. See 28 U.S.C. § 1446(d).

**WHEREFORE**, defendant MetLife hereby removes this action from the Supreme Court of the State of New York, County of New York, to the United States District Court for the Southern District of New York.

Dated: New York, New York  
June 29, 2006

Respectfully submitted,

LESTER SCHWAB KATZ & DWYER, LLP



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TO:

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Mai V. Hallingby

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**LESTER SCHWAB KATZ & DWYER, LLP**

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